

Testimony by Senator Judy Robson
on
SB 512: Mandatory Overtime for Health Care Workers

Senate Committee on Labor, Election and Urban Affairs
Wednesday, February 27, 2008

In the interest of ensuring that patients in health care facilities receive the best possible care, I am reintroducing legislation to ban mandatory overtime for health care workers.

This bill prohibits hospitals, nursing homes and other facilities from requiring health care workers to work overtime.

Recognizing that under some circumstance mandatory overtime may be necessary, the bill allows a health care facility to mandate overtime in cases of unforeseeable emergency, if the health care facility first exhausts all other options.

The bill also prohibits a facility from discharging or discriminating against a worker who refuses to work mandatory overtime or files a complaint related to mandated overtime.

This bill is needed because some health care facilities are using mandatory overtime as a way to address shortages of health care workers in our state.

This is a shortsighted approach. It puts patients at potential jeopardy when being cared for by exhausted healthcare workers.

In addition, mandated overtime leads to worker burnout and is a contributing factor to the number of talented nurses and other health care workers leaving the profession. We need to send the message that mandatory overtime as a regular business practice is unacceptable and bad health care.

As a former nurse, I know well the rigors of working extra shifts. I also know the disruptions in family life that mandatory overtime causes. For these reasons, I understand why some health care workers would leave the profession rather than work under these unacceptable conditions.

It is clear that mandatory overtime is not a solution to the shortage of health care workers. In fact, it is one of the causes. That is why we should ban mandatory overtime.

This bill is significant because of the number of health care workers it will affect.

In this bill, "health care worker" is defined as: **an employee of a health care facility who is involved in providing direct health care to patients or residents or in providing clinical or laboratory services.**

The people affected by this bill work in every conceivable kind of health care facilities. It is not limited hospitals or nursing homes.

It also includes community based residential facilities (CBRFs), all kinds of county health care facilities, assisted living facilities, residential care apartment complexes, rural medical centers, hospices, treatment facilities, adult family homes, prisons, jails and any other place licensed, certified or approved by DHFS.

I know that you will hear from many health care workers today regarding the need for this bill. Their personal stories will confirm the need for this legislation to protect patients and to retain and attract high quality health care professionals.

Please heed the voices of these caregivers and support this bill.



University of Wisconsin
Hospital and Clinics

Hospital Administration
600 Highland Avenue
Madison, WI 53792

608.263.8000
608.263.9830 Fax

TO: SENATE LABOR, ELECTIONS AND URBAN AFFAIRS COMMITTEE

**FROM: MAUREEN McCausland, SENIOR VP PATIENT CARE SERVICES,
CHIEF NURSE OFFICER
LISA MARONEY, LEGISLATIVE LIAISON**

DATE: FEBRUARY 27, 2008

RE: SB 512 MANDATORY OT BY HEALTH CARE WORKERS

Thank you for the opportunity to provide written testimony today on Senate Bill 512. I am Maureen McCausland, Senior VP for Patient Care Services and Chief Nurse Officer for University of Wisconsin Hospital and Clinics. I am representing UW Hospital and Clinics at this hearing and our written testimony today is for information only.

UW Hospital and Clinics consistently ranks among the finest academic medical centers in the United States and is frequently cited in publications listing the nation's best health care providers. UW Hospital and Clinics is recognized as a national leader in fields such as cancer treatment, pediatrics, ophthalmology, surgical specialties and organ transplantation.

UW Hospital and Clinics is the only organization in Wisconsin with level one trauma center designation for both adults and children. In fiscal year 2007, we had over 23,000 inpatient admissions, nearly 37,000 emergency department visits and over 130,000 patient days. With over 7,000 employees which includes 2,000 registered nurses, we are the largest private employer in Dane county. UW Hospital and Clinics nurses are represented by SEIU Local 1199.

As you may know, Senator Robson is a new member of the UW Hospital and Clinics's Authority Board.

We applaud Senator Robson's efforts to advance legislation improving patient care and believe SB 512 offers a positive start in dealing with a complex issue. We very much look forward to

working with her on this and other legislation that places Wisconsin among the nation's leaders in providing high quality health care to its residents.

Our stature as one of the nation's leading hospitals is very much linked to our single-minded pursuit of our goal to provide excellent patient care. Patient care will always be our primary concern and we will constantly strive to improve all aspects of it. We recognize that excellence can only be achieved if all our health care providers – in fact all of our employees – work together. Our nurses are outstanding professionals committed to their patients. Working with our nurses, in 2004 we came together and transformed how to approach overtime. The result was a contract that only allows for mandatory overtime in emergencies similar to SB 512. The contract also allows for overtime in “an acute disease epidemic, hazardous weather conditions, or an unusually high volume of last minute sick calls or no shows” as reasons for requiring overtime. We believe the bill should adopt a similar more specific definition of “emergency”.

Investigations, studies and our own experience acknowledge that it is difficult in many cases to deliver optimal patient care if a health care worker is required to work beyond 40 hours per week as the bill specifies. We believe that the guidelines developed by the Institute of Medicine are an appropriate framework for considering limitations on overtime. We believe all issues related to excessive overtime should be addressed, particularly on the issue of voluntary overtime. Currently, the bill as written is silent on voluntary overtime. We feel in the interest of patient care, voluntary overtime ought to be similarly restricted and should be viewed detrimentally to patient care as is mandatory overtime.

Again, UW Hospital and Clinics believes this legislation if enacted with a broader definition of emergency would provide uniform standards of care for the entire state.



Wisconsin Federation
of Nurses & Health
Professionals AFT,
AFL-CIO

A Union of Professionals

9620 West Greenfield Ave.
West Allis, WI 53214-2601
T: 414/475-6065
800/828-2256
F: 414/475-5722
www.wfnhp.org

Testimony of Kristy Koney, RN

Wisconsin State Senate Labor Committee

In Support of Senate Bill 512

February 27, 2008

My name is Kristy Koney and I have been a registered nurse for six years. I am here today to urge you to support the bill to ban mandatory overtime for nurses and health care workers. I understand you, our Senators and legislators have considered this bill before. There has been much debate on the issue of forced overtime – yet still today no action has been taken to stop this dangerous and unnecessary practice. I am here today to share my personal experiences with you, our elected leaders, so that you truly understand how this practice affects nurses and patients.

I love being a nurse and helping patients and their families recover from major surgeries and other traumatic and life-threatening ailments. I'm also a loving mother of three young children. That said, I'd like to give a picture of my day and show you the affect that being mandated can have on me and hundreds of other nurses just like me throughout Wisconsin.

Prior to coming to the hospital for my evening shift I spend the morning taking care of my kids until my husband returns home from work so

Local 5001
Dynacare Laboratories
Milwaukee County
St. Francis Hospital

Local 5011
Sheboygan City
Professionals
Sheboygan County
Health Care Centers
Sheboygan County
Divisions of Public Health &
Community Programs

Local 5012
Memorial Hospital of
Burlington

Local 5024
Dodge County Public
Health & Human Services

Local 5032
Clement J Zablocki Veterans
Administration Medical
Center

Local 5033
Langlade Memorial Hospital

Local 5034
Eagle River Memorial
Hospital

Local 5035
Middle River Health &
Rehabilitation Center

Local 5037
Wood County Health
Department

Local 5038
West Allis Health
Department

Local 5039
Ridgewood Care Center

Local 5040
Cumberland Memorial
Hospital

Local 5061
Brookside Care Center
Kenosha County Division of
Health

Local 5068
Manitowoc County Health
Department

Local 5084
Columbia County
Department of Health &
Human Services

An affiliate of the
American Federation
of Teachers, AFL-CIO



I can be at work at 3PM. To do my job, I am required to pay close attention to my patients and use my judgment and critical thinking to make the best choices to help them recover as soon as possible. I administer medications and talk to families and assist patients with any needs they may have. My job is stressful, but rewarding. On a good day my shift would end by 11:30 and I would return home tired and ready to rest and recharge for the following day.

But right now, the mandating of nurses to work forced overtime is worse than I have ever seen it. Every day someone on my unit is being mandated. When it happens to me, a manager will approach me at 9 PM and inform me that I will have to stay on for the night shift. This will mean that I am now required to work until 7AM at which point I will have been awake for 24 hours. This is incredibly dangerous. For me personally it is dangerous and it is unsafe and unfair to the patients that I am responsible for. I feel that as the night turns to morning my assessments of the patients aren't as detailed or precise and I could be more prone to missing something. I feel more like I am going through the motions as opposed to thinking through the decisions that I am making for my patients' well being. At 6 AM when I have been awake for 23 hours many of the medication doses are scheduled to be given to the patients. Needless to say, this is not the best way of caring for the patients in my unit. I would not want someone in my position to be taking care of my mother or one of my loved ones. But time and again there I am at 6 AM, extremely tired checking and rechecking my work to make sure that I haven't made an error that could potentially send the patient to the Intensive Care Unit or worse. Every time I am mandated I fear for my patients and my nursing license. Mandating nurses to work forced overtime

at the last minute when they are not prepared to work more than their scheduled shift is not safe for anyone.

Then when I leave the hospital at 7AM, tired and stressed, it can be extremely hard to keep my eyes open to drive home. And upon getting home, rather than sleeping, it is now time for me to look after my children and be a mother. I love nursing, and caring for others and sharing my gift with my patients and their families. Mandatory overtime puts me in a position that isn't safe for me or for them. Management seems to ignore these dangers and continues to use mandation as a way to staff the hospital. There are holes in the schedule weeks in advance and rather than filling that spot on the schedule, management waits until two hours before nurses are set to go home and tells them they have to stay an extra shift. This practice is wrong and it is dangerous.

This is why I am here today. I hope my experience can show just how bad this current system is and help guide you in passing this important piece of legislation. Wisconsin nurses and Wisconsin patients deserve better, and this is an important step. Thank you.

FREQUENTLY ASKED QUESTIONS ABOUT

WISCONSIN'S BILL TO BAN MANDATORY OVERTIME FOR NURSES AND HEALTH CARE GIVERS

Why do we need a ban on Mandatory Overtime for health care workers?

- Mandatory overtime is bad for nurses and health care workers....but it is worse for patients.
- It's an issue of patient safety. Would you want to be a patient cared for by a nurse who has just worked sixteen hours in a row?
- An overworked caregiver cannot provide the same level of care as someone who arrives fresh and ready to tackle the day's challenges.

Just because a nurse or a caregiver is tired, does it necessarily follow that he or she will make a medical mistake?

- Not necessarily, health care workers do their best to give quality care to all of their patients – tired or not. However, the likelihood of making a mistake increases when exhaustion sets in.
- One study found that after 17-19 hours without sleep subject's performance was equal to or worse than at a blood alcohol level of 0.05%. After 24 hours, 0.10%
- The Institute of Medicine study found that as many as 98,000 people die each year from preventable medical mistakes.

Do other professions have a limit on the number of hours workers can work?

- Yes, there are limits on the work hours of truckers, airline pilots, flight attendants and rail workers because it is assumed that alertness is critical to the safe performance of their jobs.
- Nurses make life and death decisions throughout their shift, hospitals should no longer be permitted to jeopardize patient safety by forcing exhausted nurses to care for patients.

What about the nursing shortage, if we ban mandatory overtime who will care for the patients?

- Mandatory overtime is unsafe for patients. We should not allow patient safety to be jeopardized.
- Mandatory overtime is forcing nurses out of the profession. A survey conducted by the Federation of Nurses and Health Professionals found that one in five nurses is planning to leave nursing in the next five years because they are fed up with working conditions like mandatory overtime.
- By banning mandatory overtime, we will give Wisconsin nurses an incentive to stay in the profession.

If we ban mandatory overtime, who will care for the patients in an emergency like a blizzard or a plane crash?

- The bill allows employees to be mandated to work in the case of an unforeseeable emergency like a natural disaster.
- However, the emergency must be unforeseeable. That means a hole in the schedule or a sick call is not considered an "emergency."

SB/cdb opeiu9aficio
4/legis/faqmandatoryot4-01



Wisconsin Federation of Nurses and Health Professionals, AFT, AFL-CIO
9620 West Greenfield Avenue, West Allis, WI 53214
414-475-6065 800-828-2256

PROHIBIT MANDATORY OVERTIME FOR HEALTH CARE WORKERS

Senate Bill 512

Mandatory Overtime *Bad For Nurses--Worse For Patients*

ISSUE:

Mandatory overtime affects both health care workers and health care consumers. In the past, mandatory overtime in health care was used only in response to unforeseen emergencies in acute care hospitals. Since the mid-1990's hospitals have used mandatory overtime as standard practice in an attempt to cut costs by not hiring additional nurses. The practice is now becoming more common in nursing homes as well. Nurses and other direct care staff are being required to work double shifts, often without any advance notice, which can also put a severe strain on their family obligations.

Nurses and other health care workers are vital to the delivery of health care in our hospitals and nursing homes. The abuse of mandatory overtime by health care employers is forcing many nurses to work when they are seriously fatigued. Fatigue from overwork can lead to medical errors in administering medications and an impaired ability to observe important changes in a patient's condition. This situation is not fair to nurses or safe for patients.

LEGISLATION:

Legislation has been introduced by Senator Judy Robson to prohibit mandatory overtime, except in cases of unforeseen emergency. The bill will prohibit a health care facility from requiring an employee who is involved in the direct care of patients or residents or in clinical services to work for more than a work shift of eight, ten, or twelve hours, unless the hours have been determined and agreed to by the employee before performance of the work. The facility is also prohibited from requiring more than 40 hours per week without the consent of the health care worker, except in cases of emergency in which the health care facility has exhausted all other options.

INTRODUCED BY SENATORS ROBSON, COGGS, LEHMAN, CARPENTER, MILLER, HANSEN, CARPENTER, AND ERPENBACH, COSPONSORED BY REPRESENTATIVE BENEDICT, ZEPNICK, VAN AKKEREN, TURNER, BOYLE, BERCEAU, KESSLER, POCAN, SHERIDAN, BOCK, GRIGSBY, TOLES, RICHARDS, MASON, STASKUNAS, COLON AND HINTZ.

-Continued on other side-

TRUCK DRIVERS HAVE LIMITS ON WORK HOURS-WHY NOT NURSES?

There are limits on the work hours of truckers, airline pilots, flight attendants and rail workers because it is assumed that alertness is critical to the safe performance of their jobs, and many other lives are at risk. Lucian Leape of the Harvard School of Public Health stated: "It really ought to be illegal for nurses to work double shifts. You don't allow flight attendants to work more than eight hours. Why would anyone think that nurses are less important?"
(*New York Times*, April 8, 2001)

NURSING SHORTAGE LINKED TO BAD WORKING CONDITIONS

According to a major investigative report by the *Chicago Tribune*, "hospitals across the country regularly blame the shortage of nurses for staffing deficiencies, but in reality there is more often a shortage of nurses willing to work in hospitals. Deteriorating, oppressive workplace conditions--from mandatory overtime to stagnant pay--have made hospital jobs less appealing...Mandatory overtime and 16-hour shifts have driven many nurses away."
(*Chicago Tribune*, September, 10, 2000)

FORCING EXHAUSTED NURSES TO CARE FOR PATIENTS DOES NOT PROMOTE QUALITY PATIENT CARE

The highly-regarded Institute of Medicine reports that as many as 98,000 patients die from medical errors in hospitals every year. This indicates that the problem is not with individual decision-making or carelessness by doctors and other directcare workers, but it is a systematic failure in the delivery of care. It is clear that exhausted workers will be more prone to errors in judgement or lack of attention to detail. This is especially serious when the wrong decision can be life-threatening to a patient.

For more information please contact the Wisconsin Federation of Nurses and Health Professionals locally at 414-475-6065 or toll-free at 1-800-828-2256.



SEIUHealthcare® United for Quality Care

Testimony of Kevin Walsh, RN

**Senate Labor, Elections and Urban Affairs Committee
February 27, 2008**

SB512: Prohibition of Mandatory Overtime for Health Care Workers Except in Unforeseeable Emergency

Thank you for the opportunity to speak on this issue. My name is Kevin Walsh, and I have been a staff nurse at Meriter Hospital for about 10 years, four in the Emergency Room and six in General Medicine & Pediatrics. I have been mandated three times in the last six and a half months.

This should be surprising, since Meriter agreed in our contract to eliminate mandates by September 1, 2006. My last mandate was on February 5, 2008.

Mandates occur because the hospital is unable to provide staff for all or part of the next shift, and tells staff currently working that they must stay past their scheduled time. This can be for as little as four hours, but is often for an entire shift of eight hours. Staff shortages, known as schedule holes, can occur for a number of reasons, both expected and unexpected, such as understaffing, vacations, open positions not yet filled, sick calls, and weather preventing travel.

Once a decision to mandate has been made, the staff is selected based on a number of criteria, such as the date of their last mandate, the hours being worked, and the number of hours required. Even though mandates are rotated based on the date of the last mandate, there is a limit of 16 hours for continuous work. Staff currently working a 12-hour shift cannot fill an 8-hour hole, and staff finishing 8-hour shifts are more vulnerable.

The effects of mandates on the staff performance are felt even before a mandate is ordered. All nonworking staff are called in an attempt to find a volunteer for extra time. All existing staff work under the threat of the mandate until the decision and selection are made. Resources are diverted to fill the hole, and morale drops.

After a nurse is mandated, personal plans are cancelled. Families with two working parents must make arrangements for additional child care.

The additional work hours have both an emotional and physical impact on your health. Nursing involves empathy with patients that can drain you emotionally, and labor that can drain you

physically. Although some staff choose to work 12-hour shifts, my personal limit seems to be eight hours. After eight hours, even simply being on my feet seems to cause back pain.

A third issue with mandates is patient safety. If you stay an evening after working a day, you can miss only one or two hours of sleep. But if you work a night after an evening, you might be working 23 or more hours without sleep, depending on when you woke. The impact of fatigue on medication errors is illustrated by the case of RN Julie Thao at St. Mary's Hospital here in Madison, where a medication error resulted in the death of a young mother. The following is from an article in the *Center for Nursing Advocacy*, November 20, 2006 (http://www.nursingadvocacy.org/news/2006/nov/20_captimes.html):

Numerous studies have shown that long hours and sleep deprivation adversely affect the performance of RNs and physicians. Researchers have warned hospitals that error rates increase after staff members have been on the job for more than eight to 10 hours at a time -- and when they fail to get adequate rest between shifts. Yet health care employers around the country, including St. Mary's, impose no limits on RN overtime.

Many hospitals actively encourage nurses to work additional hours beyond their scheduled shift. Because the basic shift for many RNs is now 12 hours instead of eight, "overtime" can mean a workday that's 14 or 15 hours long.

The day before this tragic error, Julie Thao had worked back-to-back shifts, for a total of 16 hours. It was midnight, and she was due back at the hospital at 7 a.m. So, rather than drive home and back, she spent what was left of the night in a hospital bed.

No nurse should have to choose between protecting their license and the needs of a patient. The Wisconsin Board of Nursing is on record that it will not consider personnel issues over which it feels it has no jurisdiction, such as a nurse refusing to remain on duty for an extra shift or partial shift beyond his or her established schedule. The Board does not consider this misconduct or unprofessional conduct. Despite this, nurses risk making a mistake and losing their license due to fatigue from mandatory overtime. No nurse should have to choose between protecting their license or their patient.

Alternatives to mandates do exist. They include increasing mobile unit or float staff to have a bigger pool, hospital-wide, to draw from, ending understaffing by hiring an adequate number of nurses, and decreasing open positions by increasing nurse retention.

Please support and pass SB512. Our patients deserve it and quality care demands it. Thank you.

Kevin Walsh, RN
Meriter Hospital
10 years
608-278-0483



For Immediate Release
February 27, 2008

Contact: Nathan Hoffmann
(O) 414.454.2785
(C) 608.695.5119

Nurses Testify to Improve Hospital Care

Bill seeks ban on mandatory overtime for healthcare professionals.

Madison – Registered nurses gathered at the state capitol today to testify on SB 512 which looks to ban mandatory overtime for health care professionals in Wisconsin.

While mandatory overtime had been traditionally used only during extreme emergencies, an increasing number of hospitals now use it as a regular practice to fill permanent holes in their staffing schedules. The dramatic deterioration of working conditions has driven many nurses out of the profession, and many others into non-direct care settings.

"Mandatory overtime is dangerous for patients. Fatigued nurses are much more likely to make errors, or to miss subtle changes in the condition of patients. Nobody wants a sleepy nurse," stated Dian Palmer, a Registered Nurse and President of SEIU Healthcare District 1199 in Wisconsin.

Hospitals across the country regularly blame the shortage of nurses for staffing deficiencies, but in reality, there is more often a shortage of nurses willing to work in hospitals.

The SEIU health care professionals testified to the Senate Committee on Labor, Elections and Urban Affairs. The bill is sponsored by Senator Judy Robson and Representative Chuck Benedict.

###

SEIU is the largest and fastest growing health care union in North America fighting to protect the interests of health care workers and their patients. The SEIU Wisconsin State Council coordinates the legislative and political agenda of Wisconsin's 15,000 SEIU members



SEIUHealthcare® United for Quality Care

**Testimony of Dian Palmer, RN
President of SEIU Healthcare District 1199WI
President of SEIU Wisconsin State Council**

**Senate Labor, Elections and Urban Affairs Committee
February 27, 2008**

SB 512: Prohibition of Mandatory Overtime for Health Care Workers Except in Unforeseeable Emergencies

My name is Dian Palmer. I am a registered nurse, and I am the President of the largest union of health care professionals in Wisconsin – SEIU District 1199W.

I want to thank the Committee Chairman, and the members of the Committee, for conducting this vital hearing.

Today I am here to speak on behalf of over 4,500 SEIU nurses and health professionals. In addition, I am here to speak for all the Wisconsin nurses who are unable to be here today. I am here today for all the Wisconsin nurses who are currently working overtime both voluntary and mandated. In spite of claims to the contrary by the hospital industry, the facts in Wisconsin are undeniable and stark. Wisconsin nurses are deeply concerned about this issue.

Mandatory overtime is a serious issue that demands your action. Mandatory overtime has become a major quality care issue because of deliberate changes in the way hospitals and other health care facilities operate. Mandatory overtime is now part of a deliberate strategy in many hospitals to operate with less nursing staff. This policy has produced disastrous results for patients and is quickly destroying the nursing profession.

There is an overwhelming case to be made that mandatory overtime is causing serious quality of care problems. The case was so overwhelming that when this bill was considered in 2002 it passed every committee or house where it got a vote. This despite vehement opposition from two of the most powerful lobbies in Madison—the hospital association and Wisconsin Manufactures and Commerce. The hospitals have had five years to deal with this problem but have done nothing. The last time the legislature took up this issue, the hospitals attempted to deny the use of mandatory overtime yet argued the passage of the bill would reap havoc on quality care. A Wisconsin Hospital Association lawyer went so far as to declare that the bill's emergency clause would not have covered the horrible attacks on our country on September 11, 2001; this after heroic efforts by thousands of dedicated health care workers had saved numerous lives on that tragic day. Yet after nearly six hours of testimony the Assembly Health Committee passed the bill 14 to 2. It was an overwhelming bi-partisan show of support. Yet the bill never got a vote in the whole assembly. Why? I don't know. My fellow nurses don't understand what happened.

SEIU District 1199W conducted a survey of 1486 Wisconsin registered nurses who provide direct care in hospitals. 42% of those nurses had been mandated to work overtime. When this many nurses are admitting to working mandatory overtime we know patients are being placed at great risk. In addition, 84% of Wisconsin RNs believe that nurses are leaving the profession because of poor staffing and mandatory overtime. This quantitative evidence confirms what most nurses have intuitively known for years. Mandatory overtime is driving nurses out of nursing. It is the reason we are in midst of an intensifying nursing crisis. Nurses aren't striking, their leaving; and disproportionately it's the young nurses who are leaving.

Most leading experts agree that any strategy to recruit more nurses will not alleviate the problem in the long run if equal attention is not paid to retaining our current and future nurses. Veteran nurses and even recent nursing school graduates are discouraging others from entering the field and even advising nursing students to get out of bedside care as soon as possible. To only address the supply of nurses, as is currently the hospital industry's approach, will surely make the situation worse. Bad management practices unchecked in health care results in serious complications, injuries, and even death. That's why it is imperative we take action now to protect the public safety and ban this practice.

We can turn this potentially catastrophic situation around. By the Hospital Association's own statistics Wisconsin has not yet experienced the full force of the impending nursing shortage. That means we have time to act. In California, where the nursing shortage is most acute, Kaiser Permanente, a hospital chain that employs over 20,000 nurses, implemented a ban on mandatory overtime in their facilities in 2002. No surprise to nurses, Kaiser has seen a surge in nurses returning to the bedside. During 2002 Kaiser Permanente Northern increased hires by 71% and reduced the turnover rate by 47%. The total net gain of RNs was more than 570% above the previous year.

Today you will hear all sorts of excuses and attempts to justify the continued use of this seriously misguided policy. The hospitals will tell you they "need to keep this weapon in their arsenal." They will say government shouldn't get in the way of labor management issues. They will try to raise concerns about what constitutes an emergency. There is one problem with all these arguments. Mandatory overtime is seriously hurting patients, even killing them. As lawmakers who took an oath to serve and protect the residents of this state, you have a moral obligation to protect them from serious threats to their health and safety. We can't leave it up to the industry. They have chosen to continue this practice and not protect patients and the nursing profession. It is time for you to protect the public. Public safety is the prime responsibility of government. We come to you today to ask you, our elected representatives, to protect our patients. You must take the lead in protecting patients and the nursing professions. We come to you today to take the first big step in bringing nurses back to the bedside. The future of quality health care and my profession depends upon it.

Dian Palmer, President, SEIU Healthcare District 1199WI and SEIU Wisconsin State Council
(608-277-1199, 608-225-3495)



SEIUHealthcare® United for Quality Care

Testimony of Dee (Sandra) Ives, RN

**Senate Labor, Elections and Urban Affairs Committee
February 27, 2008**

SB512: Prohibition of Mandatory Overtime for Health Care Workers Except in Unforeseeable Emergency

Honorable Senators,

My name is Dee Ives and I am a proud member of one of the most trusted professions in the US - a registered nurse. I am employed by the State of Wisconsin at the Veteran's Home in King. Nurses are often the first human contact during birth and we are the ones who often provide the last human contact, holding the hands of those who are leaving life.

Some of you may remember me from previous Senate hearings, such as the Senate hearing on a similar bill in 2003 that addressed the need to limit or ban the use of mandatory OT for healthcare workers. At that hearing, I spoke of how the use of mandatory overtime contributes to the nationwide nursing shortage by causing nurses to leave this field rather than pose a risk to their patients being on duty when they could no longer use the critical thinking skills that can mean the difference between life, serious harm, or even death for a patient in medical crisis.

I reported seeing in my facility alone during the years between 1997-2002 how 72 nurses were lost of whom only 14 retired. 80% of these nurses cited excessive Mandatory Overtime combined with inadequate staffing levels contributed to their decision to leave our facility. There was no such thing as a "part-time" RN in the State of Wisconsin as we were mandated to fill the vacant nursing positions, averaging 40-50 hours per week. Fulltime hours were between 60-80 hours and our staff struggled to maintain the standards of excellence that our profession demands. We never knew when we reported for duty whether we would be working 8, 12, or 16 hours despite the numerous studies that confirm the fact that medication errors increase exponentially for every hour a nurse is on extended duty over 12 hours.

In 2003, with a caseload of 212 patients during my shift, I relayed our staffs' concern that the combination of understaffing RNs and the excessive use of mandated overtime was posing an imminent risk to our ability to provide the quality and continuity of care our patients required. The nurses were told that patients would rather have a tired nurse than no nurse at all, even though a decrease in the quality of that care was becoming evident and even though the risk of medication errors was increasing and putting the patients at risk.

It is now 2008, and the staff at my facility have asked me to bring a new message to our legislators. Due to inaction on this issue in 2003, we are in the unique position to declare that the excessive use of mandated overtime in the healthcare field causes "cracks" that, by preventing

the continuity of healthcare delivery, create situations that put our patients at risk for serious harm or even death. Mandatory Overtime is the root of many problems that have brought healthcare to the brink of crisis, and makes healthcare an issue in the 2008 political arena. Mandatory Overtime can and does kill.

Nurses have discovered that Mandatory Overtime can, not only put their license at risk, but in 2006 criminal charges were brought against a nurse named Julie Thao that could have put her in jail for a medication error that cost a young mother her life. Fueled by press inquiries into this case, in December 2006, the WI Board of Licensing and Regulation when determining their ruling set guidelines that suggest that healthcare workers be limited to no more than 12 hours per day or 60 hours per week.

We nurses believe that the rising cost of healthcare can be stemmed, but only when there is a reduction of medication errors as the practice of forcing exhausted nurses onto extended shifts is abolished. We are seeing millions of healthcare dollars being spent on lawyers, increasing malpractice insurance costs and settlements as the victims of medication errors (or their families) file malpractice lawsuits.

In 2004, the press reported on 2 such lawsuits being filed against my facility, for you see, I work at the WI Veterans Home in King. King, contrary to some legislators belief is not a nursing home, but a unique community providing sanctuary and healthcare for generations of Wisconsin veterans over the past 120 years. During this time our staff and veterans have become intertwined in a relationship that spans generations. Some of the staff, myself included, are veterans in our own right, while many others have family members who are either currently serving in the US military or have retired from service. Some have veteran family members who now reside at King. The scandal in the press devastated staff and veterans alike as we have no wish to be known as the next Walter Reed of the DVA. Our Administration refers to these incidents as "unfortunate", and, in the years following the 2004 town hall meetings, has successfully worked with the nurses to patch the "cracks" in our system that were created by excessive mandatory overtime.

In the early months of 2005, we had only 31 RN's to cover over 700 veterans, which created unstable staffing on the units. But our nurses were willing to change how we were scheduled, worked with our Administration to reallocate positions, and over the course of the past 3 years obtain enough positions in the Budget to make the radical changes needed to reduce workloads and mandated shifts. I thank any of you who helped us in our fight for those 4 precious RN FTE, as for the first time in over 20 years the nursing staff at King has been given a glimmer of hope that the overtime situation can be stabilized. Those 4 FTE may only catch our RN staff up to the 1997 levels, but reallocation now allowed us to put in positions that include a 24/7 float pool and replacement factor positions to cover vacations and days off. Since implementation in January 2008 we are beginning to see a reduction of mandated overtime shifts which in the long run will save a significant amount of money retraining nurses. By June 2008 we hope to be fully staffed with RNs for the first time in decades. It's a start, but there is still a long way to go before Mandatory Overtime will be eliminated.

We nurses need the threat of mandated overtime eliminated, not ignored or diminished by hospital or healthcare facility administrators. We need our legislators to pass this bill and give them the message that in the past it may have been legal to mandate excessive hours for healthcare workers, but it was never right to force us to risk our licenses or our patients lives by

remaining on duty while technically unfit due to those hours. This practice will not go away until the hours for healthcare workers are legally limited to those suggested by our Board of Licensing. By signing this bill, you will save lives, reduce healthcare costs, and improve the overall quality of healthcare in the State of Wisconsin. Wisconsin would be joining the over 20 states who currently have legislation regarding this issue.

In closing, I want to say that I am a proud member of the SEIU Republican caucus. As a Republican, I challenge the leaders of my party and the legislators of my party to do the right thing on behalf of the citizens of this great State. Please make your Republican nurses proud by supporting this legislation and helping us to ensure safe, quality care to our citizens.

Dee Ives, RN
King Veteran's Home
10 years
608-296-2625



SEIUHealthcare® United for Quality Care

Testimony of Heidi Gammon, RN

**Senate Labor, Elections and Urban Affairs Committee
February 27, 2008**

SB512: Prohibition of Mandatory Overtime for Health Care Workers Except in Unforeseeable Emergency

Thank you for the opportunity to tell my story and that of my professional colleagues. My name is Heidi Gammon. I am an RN employed by the State of Wisconsin at the Sandridge Secure Treatment Facility. I have been employed by the State of Wisconsin since July 2001. I have been an RN since 1994.

It was not until recently that regularly occurring mandatory overtime has been an issue at our facility. Since the start of regularly occurring mandatory overtime, we have had several nurses leave for other jobs that do not have mandatory overtime. This has increased the need for more mandatory overtime.

I myself recently worked 82 hours in one week with several of the shifts being mandatory overtime. I have been working no less than 104 hours a pay period since before the first of the year.

Nurses are getting burned out increasing the need for sick days and then resulting in someone being forced into mandatory overtime.

We have had single mothers with limited daycare forced for a night shift with no daycare available and forced to get emergency day care to work the evening/night 16 hour shift.

We have had our brittle diabetic co-worker forced to work the night shift resulting in his diabetes being hard to regulate.

One Nurse was forced the day of Thanksgiving with a house full of guests to leave and go into work.

Another Nurse, who was forced to work the night shift, fell asleep at the wheel on the way home almost causing an accident.

The morale has been bad with work piling up due to pulling of staff from their regular duties to fill in for the vacancies. Jobs have been hard to fill due to knowing the rate of mandatory overtime.

Days off are hard to schedule unless formerly requested in the annual vacation picks. The risks to patients are severe as nurses working more than 12 hours are not as alert as they should be and medication errors and other omissions can undoubtedly happen.

It is time the State of Wisconsin acts to stop this dangerous practice of mandatory overtime. This practice is making it hard to keep nurses in our profession as well as causing major safety concerns in our institutions. The State of Wisconsin can and should do better for the citizens of this State. Passing this legislation into law is long overdue.

I implore you to listen to the nurses and health care professionals and pass this ban on mandatory overtime.

Thank you.

Heidi Gammon, RN
Sandridge Secure Treatment Facility
State of Wisconsin
7 years; 14 years as RN
608-548-0032



SEIUHealthcare® United for Quality Care

Testimony of Marcia Rayho, RN

**Senate Labor, Elections and Urban Affairs Committee
February 27, 2008**

**SB512: Prohibition of Mandatory Overtime for Health Care Workers
Except in Unforeseeable Emergency**

Hello. Thank you for taking the time to listen on this important issue. My name is Marcia Rayho. I have been an RN at Meriter Hospital in Madison for 17 years. I work the night shift.

I've been on the bargaining team for several contracts between Meriter and the SEIU nurses. In our last contract we got a provision that said no mandates except in emergency situations. Unfortunately this language has not been followed. Meriter has continued to mandate RNs to stay beyond their scheduled shift. We need the added power of this legislation to help us get our contract enforced.

My unit schedules staff for an average number of patients. When our census is down or falls within that average we're ok. But when our census is high we may need 3 or 4 more nurses for the oncoming shift. Where do those nurses come from? Sometimes there are a few nurses available but often times we have to stay over. After working all night that's hard. It's physically draining and I worry about being so tired that I make a mistake. I always want to give excellent safe care but after 10, 12 hours I'm not able to.

Meriter and other hospitals need to hire enough nurses to meet staffing needs. The hospital has to recognize the fluctuation in census and have the ability to meet the increased staffing needs. Hospitals, including Meriter, have the financial means to hire appropriate staff. Meriter has never had a problem filling vacancies as it is a good place to work. But we need to get this mandate problem solved. Despite the contract language and our efforts as nurses, we still are mandated. This has to stop, not only for us but for all health care workers in the State of Wisconsin. After all, if nurses don't fight to protect our patients and ensure their safety, who will? We hope you will join the fight with us and protect the citizens of this State.

We need Senate bill 512 passed. It will help keep patients safe.

Marcia Rayho, RN
Meriter Hospital, Madison
17 years
608-838-7327



SEIUHealthcare® United for Quality Care

Testimony of Ann Louise Tetreault, RN

**Senate Labor, Elections and Urban Affairs Committee
February 27, 2008**

SB512: Prohibition of Mandatory Overtime for Health Care Workers Except in Unforeseeable Emergency

Good afternoon members of the Senate. My name is Ann Louise Tetreault CMSRN and I have over 30 years of experience as an RN at University Hospitals and Clinics in Madison Wisconsin working on a great variety of inpatient units. I am here today to speak in support of SB512 Ban on Mandatory Overtime.

During my tenure at University Hospitals and Clinics, I have experienced and talked with many peers that have been mandated to work overtime, usually with little warning and always after they had already completed a very exhausting, stressful 8 or 12 hour shift taking care of some of the sickest patients in our tertiary care medical facility. We never knew when we left for work if we could be expected to return after our scheduled quit time. Being too tired to safely perform, making medication errors that you did not identify and responding too slowly to changes in patient conditions were just a few of the at risk behaviors nurses put their patients through and jeopardized their licenses.

One of my colleagues told me a story of getting off of work after 15 straight hours of work with no lunch or break. She knew she was possibly going to be called back to the Pediatrics ICU at 3 a.m. if there was an admission. The plan was to call her back despite knowing the amount of consecutive hours she had worked. At 11 p.m., one hour after leaving her 15 hour shift, she was called and notified that she in fact had to report at 3 a.m. She was so stressed after the 15 hour shift, she couldn't sleep but went back to work. She was so sleep deprived that her patients asked her if she was drunk because she was staggering due to fatigue. According to the Institute of Medicine, a nurse after a 12-hour shift is impaired to the point of being like someone who is legally drunk.

We had a turn over rate in the 20% area and vacancies in the hundreds. When a nurse knows in advance when she starts and ends her shift she can take charge of her/his sleep time and can be responsible for protecting his/her license and his/her patients. When we don't have that control we can not be responsible for the quality of the care we give or don't give. Nurses and other health care professionals across the state report that they are being forced to work overtime when they are exhausted after 12 hour shifts. According to a national survey by SEIU, nurses now work an average of 8 ½ weeks of overtime in a year.

In the 2004-2008 Contract Bargaining Agreement between University Hospitals and SEIU Health Care District 1199WI we were able to ban mandatory overtime except in real emergencies. We set up a contractual system to identify scheduled shifts of nursing needs, unit by unit, seven weeks ahead of the permanent schedule. We agreed upon methods to fill those needed shifts by offering incentives of extra shifts and extra pay for the unit staff and qualified hospital wide staff to fill holes in the schedule. To date we have not identified a shift, except during an agreed upon emergency, where staff have been mandated to work overtime. Our turnover and vacancy rates are closer to 7% from the pre-ban 20% of the past.

Nurses know that they will leave at the end of the scheduled shift and some can even carpool. When parking can cost over \$1,000/year, any carpooling is a great secondary gain.

We can recruit and retain staff. According to Julie Sochalski of the University of Pennsylvania School of Nursing: "Solutions that are focused on strategies to recruit more nurses will not ameliorate the problem in the long run if equal attention is not paid to strategies to retain the current and future workforce."

Nurses at UW Hospital can attest to the success of a ban on mandatory overtime. Patient care is vastly improved. While there is still room for improvement in our daily staffing of some of our units, we are proud of our most recent success and are committed to resolving the staffing issues during our next negotiations this spring.

It is important that legislators recognize the value of a ban on mandatory overtime. It is equally important that legislators recognize that a ban on mandatory overtime is achievable. It is absolutely important that legislators recognize the responsibility the legislature has to insuring safe, quality care in all of our health care facilities. It is imperative that SB512 be passed into law. Stat!!

Ann Louise Tetreault, RN, CMSRN
University of Wisconsin Hospitals
32 years
608-219-8187



SEIUHealthcare.[®] United for Quality Care

FACT SHEET on Mandatory Overtime

Mandatory Overtime for Health Care Workers is Endemic

- Mandatory overtime began as a rarely used response to unforeseen emergencies, primarily in acute care hospitals. Since the mid 1990s, hospitals have increasingly used mandatory overtime as a cost cutting measure. Mandatory overtime is now part of a deliberate strategy in many hospitals to operate with less direct care staff.
- Nurses and other health care professionals across the state report that they are being forced to work overtime when they are exhausted after 12 hour shifts. According to a national survey by SEIU, nurse's now work an average of 8 ½ weeks of overtime a year.¹
- An SEIU survey of Wisconsin RNs who provide direct care in hospitals found that 42% had been mandated.²
- In order to further reduce costs, hospitals are increasingly extending mandatory overtime to non-professional hospital workers.

Mandatory Overtime is Driving Nurses Out of the Profession

- Nurses throughout Wisconsin and across the nation report that mandatory overtime leads to nearly overwhelming fatigue, and reaps havoc on family lives. They believe that it is one of the primary reasons so many nurses are either finding non-hospital jobs, or leaving nursing altogether.
- 84% of Wisconsin RNs believe that nurses are leaving the profession because of poor staffing and mandatory overtime.³
- According to a major investigative report by the *Chicago Tribune*, "hospitals across the country regularly blame the shortage of nurses for staffing deficiencies, but in reality, there is more often a shortage of nurses willing to work in hospitals. Deteriorating, oppressive workplace conditions—from mandatory overtime to stagnant pay—have made hospital jobs less appealing. . . . Mandatory overtime and 16-hour shifts have driven many nurses away." A noted nursing expert, Suzanne Gordon, concludes: "Polls and studies show why nurses are leaving their chosen profession: They are fed up with mounting workloads, mandatory overtime, and pay levels."⁴
- Nurses are not only leaving hospitals, they are increasingly leaving nursing altogether. Of the 2.2 million RNs nationally, a record 494,000 were not using their licenses.⁵
- The situation will only grow worse unless conditions are improved. According to a national survey of nurses, one in five is seriously considering leaving the profession due to poor working conditions.⁶
- The situation is even worse among young nurses. A recent University of Pennsylvania School of Nursing Study found that 1 in 3 nurses under 30 years of age plan to leave the profession within the next year.⁷ Yet, according to the U.S. Department of Labor, an additional 450,000 nurses will be needed by the year 2008.
- More money for nurse education will not solve the problem. As nursing expert Suzanne Gordon explains: "Veteran nurses and even recent nursing school graduates are discouraging others from entering the field and even advising nursing students to get out of bedside care as soon as they can. Without substantive changes in working conditions, luring more people into the profession will aggravate, not alleviate the situation and encourage the

"management by churn" that has reduced customer service quality in fast food, retail sales, and telemarketing, where the consequences are far less serious for customers than in health care."⁸

- According to Julie Sochalski of the University of Pennsylvania School of Nursing: "Solutions that are focused on strategies to recruit more nurses will not ameliorate the problem in the long run if equal attention is not paid to strategies to retain the current and future workforce. . . ."⁹
- There is still time to solve the problem in Wisconsin. While there is a national nursing shortage, Wisconsin has yet to feel the brunt of it. Recent statistics show Wisconsin has 8.93 nurses per thousand population, which is well above the national average of 7.82 nurses per thousand.¹⁰

Health Care Mandatory Overtime is Bad Medicine

- Nurses, who are mandated more than any other occupational category, are the most important factor in quality acute care. They provide the bulk of patient care and they provide early warning and rapid intervention for critically ill patients. Fatigued nurses are much more likely to make errors, or to miss subtle changes in the condition of patients.
- The highly-regarded Institute of Medicine reports that as many as 98,000 patients die from medical errors in hospitals each year. Nurses are involved in more medical errors because they have by far the most contact with patients. According to a national study by the *Chicago Tribune*, nurse errors lead to at least 1,720 deaths and 9,584 injuries each year. Because 75% of hospitals do not report their medical errors to federal authorities, these numbers are substantially understated.¹¹
- Mandatory overtime also diminishes the quality of care, even when injuries are avoided. As Lucian Leape of the Harvard School of Public Health concludes: "It really ought to be illegal for nurses to work double shifts. You don't allow flight attendants to work more than eight hours. Why would anyone think that nurses are less important?"¹²

There is a major bi-partisan effort underway in Wisconsin to prohibit mandatory overtime for health care workers, except in cases of unforeseen emergency. SEIU Wisconsin State Council urges support for SB 512 by Sen. Judy Robson (D-Beloit). Representative Chuck Benedict (D-Beloit) will be introducing a companion bill to SB 512 in the Assembly.

For more information contact Dian Palmer, RN, (608) 225-3495, dianp@1199wup.org

¹ SEIU Nurse Alliance, *The Shortage of Care: How to Solve the Nursing Shortage by Treating the Disease, Not the Symptoms* (May 2001): 3.

² SEIU survey of 1486 RNs in Wisconsin, 2004.

³ Ibid.

⁴ *Chicago Tribune* (September 10, 2000); Suzanne Gordon, "Nursing is What Needs the Cure," *Los Angeles Times* (August 13, 2001).

⁵ *New York Times*, (April 8, 2001).

⁶ Federation of Nurses and Health Professionals, National Survey by Peter Hart Research, April 19, 2001.

⁷ Linda H. Aiken, et al, "Nurses' Reports on Hospital Care in Five Countries," *Health Affairs* 20 (May/June 2001): 43-53.

⁸ Suzanne Gordon, "Nursing is What Needs the Cure," *Los Angeles Times* (August 13, 2001).

⁹ Hearings, U.S. Senate Health, Education, Labor and Pensions Committee, May 18, 2001.

¹⁰ Bonnie Strauss, Testimony before Joint Audit Committee, June 28, 2001.

¹¹ *Chicago Tribune*, September 10, 2000.

¹² *New York Times*, April 8, 2001.

New Jersey's Mandatory Overtime Regulations

After a five-year battle, New Jersey's Mandatory Overtime regulations were adopted January 15, 2004, and published in adopted form in the New Jersey Register, February 17, 2004. It was the second law of its kind in the nation, behind Washington. The New Jersey legislation is considered the strongest in the nation.

The mandatory overtime ban covers health care workers "employed by a health care facility who is involved in direct patient care activities or clinical services and who receives an hourly wage, but shall not include a physician." In the regulations, a health care facility is defined as a facility "licensed by the Department of Health and Senior Services...a State or county psychiatric hospital, a State developmental center, or a health care service firm registered by the Division of Consumer Affairs in the Department of Law and Public Safety..." These definitions make the New Jersey law applicable to nursing homes, as well as other facilities, and covers nurses as well as nurse aides.

The law mandates a maximum workweek of 40 hours for all hourly employees who provide direct patient care. Any work in excess of 40 hours per week must be voluntary. Exceptions to the ban on mandatory overtime can be made in the case of an "unforeseeable emergent circumstance." An "unforeseeable emergent circumstance" will occur when overtime is required as a last resort and the employer has exhausted all reasonable efforts to obtain staffing. The employer has exhausted all "reasonable efforts" to obtain staffing, after:

- a. seeking volunteers to work extra time from all available qualified staff who are working at the time of the unforeseeable emergent circumstance;
- b. contacting all qualified employees who have made themselves available to work extra time;
- c. seeking the use of per diem staff
- d. seeking personnel from a contracted temporary agency when such staff is permitted by law or regulation.¹

However, exhaustion of reasonable efforts does not apply in the event of any declared national, State or municipal emergency or a disaster or other catastrophic event that substantially affects or increases the need for health care services. In these cases when the employee is made to work mandatory overtime, the employer shall provide the employee with necessary time, up to a maximum of one hour, to arrange for the care of the employee's minor children or elderly or disabled family members

Enforcement

If employees believe their employer did not meet the requirements of the law, they can file a Mandatory Overtime Complaint form with the NJ Department of Labor. Nurses have up to two years following the date of the assigned mandatory overtime to file the complaint. After the Division of Wage and Hour Compliance receives a complaint, the employee is sent a letter acknowledging its receipt. The complaint is reviewed to ensure that the type of work and employer are covered under the law. The

¹ N.J.S.A. 34:11-56a32. Definitions relative to work hours for certain health care facility employees

employer is then notified that a complaint was filed. The employer is also supplied a copy of the complaint and asked to complete a questionnaire regarding the mandatory overtime. An employer in violation of the law will be subject to monetary penalties; up to \$1,000 for each day the rules have been broken. The person who filed the complaint cannot be fired or disciplined.

Hospitals Arguments against Legislation

The mandatory overtime ban was strongly opposed by the New Jersey Hospital Association (NJHA). The NJHA claimed it would be difficult for hospitals to obey the law because "patient loads and demands on hospitals change daily and they do not have enough staff."

Effects of Legislation

Neither the New Jersey Department of Health and Senior Services or the New Jersey Department of Labor have any data on the mandatory overtime ban. Both departments are unaware of any health care facilities that have been forced to cease services due to the legislation. Geraldine Moon, the Sr. Vice President of Hospital Operations at the New Jersey Hospital Association, concurs with the departments. In an email from Moon she stated, "There are no hospitals or hospital care units in NJ that have closed because of the MOT law. The utilization of MOT within our hospitals, according to survey data, was rare, and it was not a practice that was used by the majority of our hospitals. Of course the unions and the NJ State Nurses Assoc. advocated for the law, however it was not necessary to begin with. Our Dept of Labor is enforcing compliance to the law, and to date there are no infractions great enough to warrant closure action."

For more Information:

New Jersey Statue and Rule Language

<http://www.state.nj.us/labor/lssc/hlthcarelaw.htm>

Testimony of Kalli Nedeau

Wisconsin State Senate Labor Committee

In Support of Senate Bill 512

February 27, 2008

Good Afternoon Senators. My name is Kalli Nedeau, and I am a registered nurse in Milwaukee. I'm here today to share with you my experiences with forced mandatory overtime. Forcing nurses and health care workers to work longer than anticipated is unsafe and puts both the caregiver and the patient in jeopardy. Hospital administrators often claim they need the ability to mandate nurses and have absolute flexibility in the scheduling process. But this bill gives the hospitals the flexibility to use mandation when there is a true emergency such as a natural disaster, a terrorist attack or a paralyzing snowstorm. Simply not having enough nurses to complete a daily schedule does not qualify as an emergency; it is management's responsibility to staff the hospital so that patient safety is the highest priority. Why then is forced overtime so prevalent when there is a clear and undisputable connection between medical errors and fatigued nurses? Why are hospitals continuing to under staff medical units throughout their facilities and using forced overtime to fill the holes? And while the answers offered by the opponents of this legislation are complex and obscure, the focus of this bill, a ban on mandatory overtime, is imperative for the safety of patients in Wisconsin and those who care for them.

As a PM shift worker I have often been forced to stay on and work the night shift as well. So instead of working an 8-hour shift, I end up working a 16-hour shift from 3 PM until 7 AM. I am consistently able to maintain my high level of awareness and proficiency until about 3 AM when I start to really wear down and feel tired. My mind wants to rest and my body needs to keep moving for fear of shutting down. The more tired I am the more likely I feel I might make a mistake. Your mental acuity

Local 5001
 Dynacare Laboratories
 Milwaukee County
 St. Francis Hospital

Local 5011
 Sheboygan City
 Professionals
 Sheboygan County
 Health Care Centers
 Sheboygan County
 Divisions of Public Health &
 Community Programs

Local 5012
 Memorial Hospital of
 Burlington

Local 5024
 Dodge County Public
 Health & Human Services

Local 5032
 Clement J Zablocki Veterans
 Administration Medical
 Center

Local 5033
 Langlade Memorial Hospital

Local 5034
 Eagle River Memorial
 Hospital

Local 5035
 Middle River Health &
 Rehabilitation Center

Local 5037
 Wood County Health
 Department

Local 5038
 West Allis Health
 Department

Local 5039
 Ridgewood Care Center

Local 5040
 Cumberland Memorial
 Hospital

Local 5061
 Brookside Care Center
 Kenosha County Division of
 Health

Local 5068
 Manitowoc County Health
 Department

Local 5084
 Columbia County
 Department of Health &
 Human Services

An affiliate of the
 American Federation
 of Teachers, AFL-CIO

goes down, and your decision-making ability fades. It becomes harder to interpret vital signs, patient symptoms, patient lab results, and ensure that you give the proper medication.

It is my job to assess my patients. If a patient's medical status changes, I need to immediately recognize the signs and be able to react at a moments notice. If the patient's blood pressure suddenly changes or the pulse ox drops it means the patient could be in trouble. At that moment I need to think clearly and take action. I need to know if the patient is a no code or a full code and I need to know exactly what actions to take to care for my patient. If I am exhausted it is much more difficult to think clearly and make appropriate decisions for my patients. When I am mandated to work overtime, hospital management knowingly puts me in that position – a position where I am mentally and physically exhausted.

My story is not much different from other nurses across Wisconsin whose employers routinely staff their hospitals by forcing nurses to work overtime. It is shocking to me that this is allowed to happen. Please, I hope you will help me, my fellow nurses, and the patients in Wisconsin by ending mandatory overtime.



Wisconsin Federation
of Nurses & Health
Professionals AFT,
AFL-CIO

A Union of Professionals



9620 West Greenfield Ave.
West Allis, WI 53214-2601
T: 414/475-6065
800/828-2256
F: 414/475-5722
www.wfnhp.org

Testimony of Kathy Filipiak, LPN

Wisconsin State Senate Labor Committee

Support of Senate Bill 512

February 27, 2008

Good Afternoon, my name is Kathy Filipiak and I am a Licensed Practical Nurse. I am here today to urge you to support the bill to limit forced overtime for nurses and health care workers, Senate Bill 512.

Mandatory overtime is degrading to nurses and health care workers, and dangerously unsafe for patients. I know nurses who have had to miss birthday parties and other important family events because a manager made them work another shift on top of the one they just worked. I even know of nurses who have even fallen asleep at the wheel of their car while driving home from a sixteen-hour shift. Mandatory overtime has made many nurses dread coming into work when they knew there were not enough nurses scheduled and the likelihood that they may be forced to work another shift was high.

One weekend a nurse who normally works a 12-hour shift was mandated for another four hours and then had to return the next day for another 12-hour shift. She was only able to see her family for two hours and her daughter who was two years old wouldn't even look at her. She was also extremely tired and afraid she would make a mistake with patient care.

Nurses, more than anyone know how important it is to have an alert nurse at the patient's bedside. We are a caring profession and those that go into

Local 5001
Dynacare Laboratories
Milwaukee County
St. Francis Hospital

Local 5011
Sheboygan City
Professionals
Sheboygan County
Health Care Centers
Sheboygan County
Divisions of Public Health &
Community Programs

Local 5012
Memorial Hospital of
Burlington

Local 5024
Dodge County Public
Health & Human Services

Local 5032
Clement J Zablocki Veterans
Administration Medical
Center

Local 5033
Langlade Memorial Hospital

Local 5034
Eagle River Memorial
Hospital

Local 5035
Middle River Health &
Rehabilitation Center

Local 5037
Wood County Health
Department

Local 5038
West Allis Health
Department

Local 5039
Ridgewood Care Center

Local 5040
Cumberland Memorial
Hospital

Local 5061
Brookside Care Center
Kenosha County Division of
Health

Local 5068
Manitowoc County Health
Department

Local 5084
Columbia County
Department of Health &
Human Services

An affiliate of the
American Federation
of Teachers, AFL-CIO



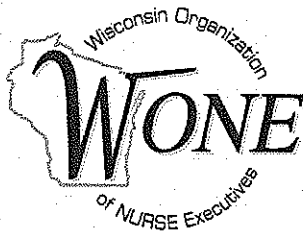
nursing do so because we are nurturing human beings. We care about our profession and we care deeply about our patients. That's why for years we have volunteered to pick up shifts and fill in where we can to make sure the hospital is adequately staffed. But volunteering to work overtime and being forced to work overtime are two completely different things.

When a nurse volunteers to pick up an extra shift or to work extra hours she, herself has made that decision. It is an entirely different situation when a nurse is forced to work an extra shift without warning and without the ability to say no. This kind of forced overtime is what must stop.

Hospitals are forcing their staff to work mandatory overtime to staff the hospital. Often holes in the schedule are left open for weeks and then when the day comes a nurse is forced to work overtime. Management should be compelled to do the work of management and figure out how to get a nurse scheduled for that hole in advance. Let's leave the mandatory overtime for the true emergencies.

Mandatory overtime is a dangerous practice that should come to an end. That is why I am here today to ask you for your full support of this legislation. You have an opportunity to make Wisconsin hospitals and health care facilities safer for patients. No nurse or health care worker should be forced to care for patients when she is blurry eyed from fatigue and no patient should be forced to receive care from an impaired nurse. This legislation will go a long way in ensuring safety for patients and fairness for nurses and health care workers in Wisconsin.

Thank you



5510 Research Park Drive
P.O. Box 259038
Madison, WI 53725-9038
Phone: 608-268-1806 Fax: 608-274-8554

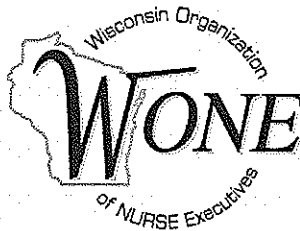
Position Statement of the Wisconsin Organization of Nurse Executives
Senate Bill 512
February 27, 2008

The Wisconsin Organization of Nurse Executives (WONE) represents over 250 nurse administrators, managers and faculty members of Wisconsin's hospitals, health care agencies and schools of nursing. The WONE opposes Senate Bill 512 because health care agencies currently maintain effective supplemental staffing resources and rarely utilize mandatory overtime (MOT) and this bill does not support the (2004) Institute of Medicine's Recommendations for Transforming the Work Environment of Nurses.

It is further noted that at this time, Wisconsin is not experiencing an acute shortage of nurses as compared to other regions of the country. Nurse leaders from various organizations have created partnerships with schools, workforce development boards and agencies to continually expand nursing's workforce in the state. Over 30 schools of nursing provide over 2000 graduates yearly to Wisconsin's health care agencies. Two additional schools of nursing are also projected to open, further increasing the number of new graduates in the state. Since 2004, Wisconsin uniquely offers the Nurse Residency Program to hospitals state wide through a federally funded program administered by Marquette University. Key success factors contributing to new graduates' socialization and retention have been implemented in many Wisconsin hospitals. Through these initiatives, Wisconsin has experienced considerable growth both in the number of new graduates and in our ability to retain them.

Health care agencies have also diligently developed several options to access supplemental staff when needs arise. Supplemental float nurses, joint appointed staff, and other flex staff have been expanded over the years, providing agencies various options when increased levels of staffing are required. Specially trained nurses are also available who can care for a variety of patients, maintaining competency in multiple specialty areas. It is also noted computerized scheduling systems are being implemented or expanded in several Wisconsin hospitals. These applications greatly enhance the agency's ability to fill open shifts well in advance of needs.

Given the above, mandatory overtime is never a first, or even a second strategy for staffing. Senate Bill 512 is a "one-size-fits-all" approach to hospital staffing and it does not reflect the fact, which is born out by studies that mandatory overtime rarely occurs. A WHA study of nurses done with other organizations and the Wisconsin Department of Workforce Development indicates that only 7.8% of RNs had ever experienced mandatory overtime. That being said, the need for healthcare is unpredictable and hospitals must be able to respond to patient needs around the clock every day of the year. Limiting the tools available to hospitals impairs their ability to insure that the correct number of staff are available whenever and wherever the need. SB 512 is one of those factors that would limit the options available to healthcare facilities as they struggle to staff for unpredictable patient care demands. It is not possible to simply not care



5510 Research Park Drive
P.O. Box 259038
Madison, WI 53725-9038
Phone: 608-268-1806 Fax: 608-274-8554

for patients. Their safety is compromised when sufficient staffing is unavailable. While a last resort of many existing ways to manage patient care needs, mandatory overtime should remain a tool to be used in times of extreme circumstances.

Recently the WONE has extensively reviewed the concepts of scheduling practices and fatigue factors for nurses. Through a review of current research, many factors have been identified to contribute to nurses' fatigue. Factors such as presence of rest periods during a shift, the scope of the assignment, number of hours worked, the acuity of patients, personal lifestyle issues, the time off between scheduled shifts and other factors all contribute to fatigue. Furthermore the Institute of Medicine recommends a variety of factors be addressed to transform current work environments. WONE remains committed to expanding its membership's awareness of current research in this area and encourages each organization to examine current scheduling practices. It must be said that as part of the above analysis of fatigue and length of work shift, if mandatory overtime is bad, then it should follow that voluntary overtime is equally harmful. SB 512 is silent on the use of voluntary overtime and is a disingenuous solution to the issue.

As noted above, proactive approaches to the issues surrounding adequate staffing are being pursued. Health care facilities, academia and other stakeholders continue to address the nursing workforce shortage. A number of additional initiatives have been put into place so that supplemental staff are available when the need arises. WONE also continues to address worker fatigue and other work environment issues. Mandatory overtime is the last of many strategies to assure that sufficient staffing is always available and that our patients remain safe and receive optimal care. The members of WONE appreciate the opportunity to respond to the proposed legislation found in Senate Bill 512.

Peggy Ose, RN, MSN, FACHE
WONE President

References

Institute of Medicine (2004). Keeping patients safe: Transforming the work environment for nurses. Washington, DC: The National Academic Press.

Maxson-Cooper, P., Bahr, S., Buth, C., Martin, R., Peters, N., Swanson, K., Warhanek, J., Ryan, P., (2007). White Paper: Nurse Scheduling and Fatigue in the Acute Care 24 Hour Setting, pending WONE publication.



Wisconsin State AFL-CIO *...the voice for working families.*

David Newby, President • Sara J. Rogers, Exec. Vice President • Phillip L. Neuenfeldt, Secretary-Treasurer

To: Senate Labor, Elections and Urban Affairs Committee
From: Phil Neuenfeldt, Secretary-Treasurer
Date: February 27, 2008

Re: **Support for Senate Bill 512**
Prohibits Forced Overtime for Nursing and Clinical Staff

We are not able to testify at the hearing today, but the issue of forced overtime in the health care industry is one that has broad impact. Working very long hours is difficult enough for an employee who is responsible for producing a quality gear, casting a fine mold in a foundry, balancing the receipts at a bank or repairing electric lines. But forcing nursing staff to frequently work long hours of overtime is not only detrimental to them—it is dangerous for patients. It is in the health care field that mistakes in judgment can harm other people in a direct, profound and irreversible way.

The nursing staff must carefully follow and fulfill a physician's instructions, detect possible medical complications, administer medications, and provide for the overall care and comfort of a patient. Being forced to work extra hours beyond a scheduled shift in an already demanding job causes fatigue which increases the risk of medical errors. It definitely impairs the ability of a nurse to notice changes in a patient's condition, some of which could be life-threatening.

The government has set limits on the work hours of truckers, airline pilots, flight attendants and railroad workers because it acknowledges that the safe performance of these jobs requires alertness and many lives are at risk in the event of faulty judgment. The same holds true for nursing and clinical staff in health care. There is good reason why the labor movement fought for the eight hour day as a humane working standard. SB 512 would curb the abusive practice of forced overtime in the health care industry, but allow a reasonable exception for employers in the event of an unforeseen emergency. The current situation is not fair to nurses and clinical staff, nor to those who rely on their care. We urge your support for SB 512.

PN/JR/mj:opeiu#9,afl-cio,clc



6117 Monona Drive • Suite 1 • Madison, Wisconsin 53716-3995 • (608) 221-0383 • FAX (608) 221-2788
info@wisconsinnurses.org • www.wisconsinnurses.org

TO: Senator Spencer Coggs, Chairperson and Other Members of the Senate
Committee on Labor, Elections and Urban Affairs
FROM: Gina Dennik-Champion, MSN, RN, MSHA
Wisconsin Nurses Association Executive Director
DATE: February 27, 2008
RE: Support for SB512 – Relating to Mandatory Overtime Hours Worked
by Health Care Workers Employed by Health Care Facilities and
Providing Penalties

Good afternoon Chairperson Coggs and Members of the Senate Committee on Labor, Elections and Urban Affairs. My name is Gina Dennik-Champion I am a RN and I am here today representing the Wisconsin Nurses Association (WNA).

WNA thanks you for holding a hearing on SB512 – Mandatory Overtime Hours Worked by Health Care Workers. We wish to thank Senator Judy Robson for bringing this legislation forward, as the implications of being forced to work while fatigued can have serious negative outcomes for the patient and the nurse. Not to mention the impact that forced overtime can have on family and other commitments.

Mandatory overtime is a difficult problem for RNs and health care facilities. Overtime is defined as the hours worked in excess of an agreed upon, predetermined, regularly scheduled full or part time work schedule, as determined by contract, established work scheduling practices, policies or procedures. Because of inadequate RN staffing, employers have used mandatory overtime to staff facilities.

Federal regulations place limits on the amount of time that can be worked in other industries in which the work directly affects public safety (e.g., aviation and transportation). Those regulations also set requirements for defined periods of time that workers must rest or be off duty before returning to work. Health care continues to be exempt from such overtime regulations.

In regards to the role of the RN in promoting safe patient care, a 2003 report from the Institute of Medicine (IOM) (*Keeping Patients Safe: Transforming the Work Environment of Nurses*) noted that long work hours pose one of the most difficult threats to patient safety. The IOM noted that fatigue slows reaction time, decreases energy, diminishes attention, and otherwise contributes to medical errors. This IOM study concluded that elimination of mandatory overtime is essential to safe patient care and healthier nurses.

Furthermore, a 2004 report commissioned by the Agency for Health Care Research and Quality, and published in the July/August *Health Affairs* reconfirms the link between overtime and medical errors. This report, *The Working Hours of Hospital Staff Nurses and Patient Safety*, found that the risk of making an error greatly increased when nurses worked shifts that were longer than 12 hours, when they worked significant overtime, or when they worked more than 40 hours per week. The study found that the likelihood of making an error was three times higher when nurses worked shifts lasting more than 12.5 hours. Disturbingly, in nearly 40 percent of the shifts studied, nurses worked at least 12.5 consecutive hours. More than 25 percent of the participants in the study reported working mandatory overtime at least once during a one-month period. Overall, nurses reported being unable to leave work at the end of their scheduled shift more than 80 percent of the time.

In Wisconsin, nurses have seen first hand the negative outcomes associated with working extended hours while fatigued. In 2006, a registered nurse who worked two double back-to-back 8-hour shifts followed by returning to work after less than 8 hours of rest. This RN was responsible for an unintentional medical error that resulted in the death of her patient. This nurse was disciplined by the Board of Nursing, terminated from her job and was brought up on criminal charges – Class H Felony – by the Department of Justice. She pleaded guilty to a misdemeanor and has now been notified by the Office of the Inspector General that she is prohibited from working in any Medicare, Medicaid or government-funded agency.

In this case, the RN volunteered and was allowed to work these hours. This case, however, has had a chilling effect on the nursing community as the fear of working forced overtime while fatigued, and creating an unintentional medical error, can result in termination and imprisonment. No nurse should be put in this situation. Nor should any patient.

Use of mandatory overtime in our statewide health care facilities is oftentimes a symptom of larger system issues. These system issues, be it high census, administration philosophy of budget before safety, or work environment concerns, must be recognized and addressed immediately before patient care becomes further compromised. According to the 2003 IOM report, RNs catch 86% of all medical errors. These health care workers need to be alert and competent at all times. Promotion of safe nurse staffing is not the same as nurse staffing that consists of nurses working extended shifts or extra workdays with time to rest. Safe nurse staffing is a system that takes into account patient acuity, experience of the nurse, nurses saying no to voluntary overtime opportunities, degree and amount of support services and administration's appreciation and an appropriate response to the increased demand for nursing care, skills and intelligence. The continual use of mandatory overtime as a means of providing adequate nurse staffing levels is inappropriate and needs to be addressed.

I thank you for the opportunity to provide WNA's viewpoint on the issue of mandatory overtime as it relates to the promotion of safe nurse staffing and nursing care.

WISCONSIN HOSPITAL ASSOCIATION, INC.



To: Members of the Senate Committee on Labor, Elections and Urban Affairs

From: Judy Warmuth, RN, PhD., Vice President-Workforce
Wisconsin Hospital Association

Date: February 27, 2008

RE: Testimony in Opposition to SB 512

Hospitals are very concerned about patient safety. I would provide as evidence the fact that all of Wisconsin's hospitals publicly report patient safety measures on the Wisconsin Hospital Association (WHA) CheckPoint website, and that WHA has led community and statewide initiatives on error reduction.

WHA is opposed to SB 512 because it takes away an important and rarely used safety net that allows hospitals to assure that there will be staff to care for patients in unforeseen circumstances, and does not address the more frequent and larger issues of fatigue and extended hours of work.

As health care providers, we are concerned by the total hours worked by employees and by the risk created by fatigue to patients and to employees. We are taking a proactive approach to address this. For example, I sit on The Safety Partnership, a group within the Department of Workforce Development (DWD) that is working on a project relating to extended work hours and fatigue. The group is developing strategies to inform employees and employers of injury rates and decline in performance that result from prolonged work hours. The group is also looking to present strategies, solutions and interventions to help workers and employers address these concerns.

WHA believes the discussion on fatigue should focus *not* on mandated hours, which research shows are a very small part of the total overtime hours, but on total hours worked, recovery time, and the effects of fatigue on patient safety. Unfortunately, SB 512 focuses only on one small part of this broad picture. It is only by looking at this full picture that we will develop appropriate solutions.

In turning to SB 512, at the heart of this bill is the question of fatigue by health care workers. We are fortunate that the previous era in health care began a time of research about health care workers and numbers of hours of work, and there is now enough research to allow an evidence-based discussion of fatigue, overtime and patient safety.

That research indicates the following:

- Studies of health effects of extended hours in other industries have found no correlation between those effects and whether extended hours are required or voluntary, suggesting that the health impact is comparable, regardless of this distinction. (Trinkoff, et al, 2006)
- While nurses work longer than their shift length 81% of the time, only 6% of that time is mandated. (Rogers, 2004) Dr. Rogers reported the same figure to an American Nurses Association (ANA) meeting in 2005.
- When nurses do work overtime, the average amount of time worked over scheduled hours is 49 minutes. (Scott, et al 1/2006)
- Nineteen percent of nurses work two or more jobs. (Trinkoff, et al, 2006 and Scott et al 2/2006)
- Errors and near errors are more likely to occur when nurses work 12 or more hours. (Rogers, et al, 2004)
- The National Institute of Occupational Safety and Health (NIOSH) has reviewed published studies across all industries relating to long work hours and found that deteriorating performance for 12-hour shifts was found only with work weeks longer than 40 hours. (April 2004)
- Work hours for medical residents have been restricted to 80 hours per week. Evidence after several years is mixed, with no clear patient advantage.

And from that evidence-based research, organizations have made recommendations relating to this issue:

- The Joint Commission has recommended four strategies to minimize fatigue and its effects. Schedule work and on-call hours to reduce fatigue; limit work hours; identify tasks that should not be done by individuals on extended work hours; and use safeguards to ensure that procedures are done correctly.
- The Institute of Medicine (IOM) has recommended that nurses should not provide care in any combination of scheduled shifts, voluntary or mandatory overtime in excess of 12 hours in 24; and no more than 60 hours in a 7-day period. The report also discusses recovery time, but makes no recommendations.
- The American Nurses Association (ANA) has position statements for both employers and nurses relating to work hours and fatigue. These statements speak to rest and recuperation between shifts.
- The Wisconsin Nursing Consortium has a statement on hours of work and fatigue that is similar to the ANA position.

When I started this position at WHA in 2003, hospitals were struggling with many nursing vacancies. There was a fair amount of agency or contract nursing time being used and nurses were very concerned about their schedules, and the hours they needed to work to care for patients. The Legislature held a hearing on a similar bill at that time, and WHA advocated for increasing the supply of health professionals as a strategy to avoid mandatory overtime. As I recall, testimony at that hearing came primarily from public institutions, not from the private sector.

As we look at 2008, we see a different scenario. With a great response from Wisconsin's nursing schools and a slower than expected retirement rate of older nurses, hospitals today find they can fill most of their open nursing positions. That being said, staffing may still become an issue during census peaks and valleys and during periods of staff absenteeism due to illness, but both employers and nurses share responsibility to assure that safe care is provided. This includes both

assuring that adequate number and mix of staff are present to provide care and that staff can be alert and vigilant in providing care.

A mandate on employers, such as contained in SB 512, only ignores the independence of employees to hold multiple positions, and to work in schedules that fit within lives and lifestyles, and also workers' responsibility to be rested when presenting for work. A simple mandate addressing only one piece of this complex equation is not a solution and does not provide the assurances needed.

WHA believes that the interested parties in Wisconsin must participate in a broad discussion of all of the issues around fatigue, hours of work and recovery. We have expressed our interest in doing so to legislators, our members and employee groups. As the amount of evidence increases, we have an obligation to base our behavior on this evidence which indicates that both parties—health care workers AND employers must participate in creating a safe patient care environment. Fatigue, hours of work and recovery can be addressed, but SB 512 does not do so. There are other, far better ways to assure safety for patients and employees.

In closing I would like to raise one specific point that is perhaps for Legislative Counsel or the bill author to answer. From my reading, it appears Senate Bill 512 intends to over-ride the Fair Labor Standards Act (FLSA) by putting all hospital workers into a 40-hour work week. For background, the Fair Labor Standards Act (FLSA) allows health care facilities to pay workers under either a 40 hour week or an 8 and 80 rule. If so, WHA would have an additional, serious concern with this legislation's intent.

Sources in order cited:

Ann Rogers

The Working Hours of Hospital Staff Nurses and Patient Safety. Health Affairs, July/August 2004.

Allison Trinkoff

How Long and How Much are Nurses Now Working? American Journal of Nursing. April 2006.

Linda Scott

1. Effects of Critical Care Nurses' Work Hours on Vigilance and Patients' Safety. American Journal of Critical Care. Jan 2006

2. The Impact of Multiple Care Giving Roles on Fatigue, Stress and Work Performance Among Hospital Staff Nurses. Journal of Nursing Administration, Feb 2006

NIOSH

Overtime and Extended Work Shifts: Recent Findings on Illnesses, Injuries, and Health Behaviors. DHSS. April 2004.

JCAHO

The Joint Commission Perspective on Patient Safety. The Rules of Rest and Relaxation. May 2007

Institute for Patient Safety. Source of the quote by Dr. Haraden.

TRUST: the 5 Rights of the Second Victim. Journal of Patient Safety, June 2007.

Wisconsin Society of Healthcare Human Resources Administration

W175 N11117 Stonewood Drive, Suite 204
Germantown, WI 53022
Phone: 262-532-2440
Fax: 262-532-2430
Web page: www.wshhra.net
Email: wshhra@teamwi.com

WSHHRA

**Testimony Re: Ban on Mandatory Overtime Legislation
Senate Bill 512**

My name is Randy Schade; I am the Director of Human Resources at Aspirus, a not for profit healthcare system corporately located in Wausau, WI. Aspirus employs over 3,800 employees, the majority of which are clinicians and caregivers (i.e. Registered Nurses and Technicians). Aspirus is a community-guided health system providing leading health, cancer, GI, and spine and neurological care. We serve people through Aspirus Wausau Hospital, more than 30 primary and specialty clinics, an affiliated hospital and physician network, and regional and home health and hospice services. I am also the President of the Wisconsin Healthcare Human Resources Administration (WSHHRA). I also speak to you on this topic today as a representative of WSHHRA.

Unfortunately I am unable to voice my concerns to this proposed legislation in person, however, it is my sincere wish that my thoughts be voiced to all stakeholders. I am here to speak in opposition to Senate Bill 512, legislation that would ban the use of mandatory overtime. I must start by saying that in my healthcare organization, in WSHHRA and in my field of Human Resources (HR, I am recognized as a strong employee advocate. I have been employed in the healthcare field for over 20 years and been witness to the tremendous changes that healthcare has experienced in those 20 years. Additionally, my spouse is a healthcare professional with over 20 years experience as a Respiratory Therapist, I am acutely aware of the challenges caregivers (and their families) endure. It is with this context I present my thoughts regarding this proposed legislation.

Being a strong employee advocate, you're probably wondering why I oppose Senate Bill 512 legislation. There are many important reasons. Let me first speak to the reason that most affects the image and importance of employee relations in our workplace. I don't want employees to believe for one second that good labor employment practices have to be legislated. I want employees to know that hospital administrators are always aware of their concerns and issues and that we are both working together towards achieving the same goal - delivering patient care that exceeds the expectations of all involved.

Additionally, I believe that those choosing healthcare as a career choose it first to help others, not with a priority focus on hours and shifts.

Now allow me to address with you the more intellectual reasons why we should not pursue approval of this legislation:

1. I expect that each of us remain aware of the current and future demographics affecting the delivery of healthcare going forward. There will be more people turning 65 years old than 18 over the next 20 years and beyond. Between the years of 2000-2020, the US population will grow at a pace of about 18.2% while the number of 65 year olds will grow by 54% and the number of 85 year olds will grow by 57%. Simply put, there will be more people exiting the workforce than entering the workforce. There will be more people needing healthcare than people available to deliver healthcare. According to a US Department of Labor Report, non-health occupations between the years 2000-2020 will grow by 14% while health occupations will grow by 29%.
2. Our young people are choosing careers other than those in healthcare settings. These changing choices are not due to mandatory overtime, but largely due to the fact that women, who in the past had fewer career choices, now have unlimited choices.
3. We are and will continue to experience a nursing shortage over the next 20 years.
4. We continue to have increasing amounts of regulation in the healthcare industry, which increases the amount of time needed to manage the paperwork.

At times for any number of reasons, nurses are asked to stay on duty for a few extra hours or may be asked to pick up an extra shift. This need for extra help may be the result of increased patient census, increased acuity of patients, nurses calling in sick or having family emergencies (involving their own children or parents), vacancies, and accidents or emergencies requiring that more professional staff be available.

Because of the tight labor market the programs being used to encourage this added staffing assistance are voluntary or offered on a rotation basis. Mandatory overtime is typically a chosen alternative of last resort. I assure you that any hospital that uses "mandatory" overtime right now on a regular basis is a target for recruiters who are eager to place nurses at other hospitals. Obviously, this need to maintain our own nurse pools makes us very aware that the constant use of mandatory overtime could hurt our success with addressing our own individual hospital retention issues.

Mandatory overtime is a tool of last resort in delivering the care needed by our patients but one that may be needed to assure quality operations and outcomes. Currently our WSHRA member hospitals are using a variety of programs at a great cost to entice employees to work longer or to cover additional shifts needed for patient care. At times healthcare facilities are resorting to mandatory overtime to deliver needed patient care, but only when all other staffing avenues have been exhausted.

We want to build partnerships with our employees. We currently offer more flexible scheduling than we ever have in healthcare including options such as full-time and part-time positions, job sharing, weekend options, occasional staffing, and a multitude of other creative staffing options. Most hospitals are putting retention programs for employees in place, many with a focus on

nursing. Healthcare employers are working in collaboration with technical colleges, universities and high schools to interest our young people in healthcare careers and to increase enrollment in nursing schools and other healthcare occupations. All these items are intentional and focused efforts on the part of healthcare institutions to develop options so less overtime will be required for patient care.

Mandatory overtime is a symptom of larger problems. I encourage you to work with us to solve these larger issues—one of which is the current shortage of healthcare workers. Your focus on support of educational institutions that provide programming for these professionals is a first step in solving these problems. Assist us in reducing paperwork requirements that hinder our care giving staff from being at bedside and/or that requires additional staffing just to complete the documentation. This pending legislation will only have a negative effect, requiring even more paperwork to implement needed staffing patterns for essential patient care.

At the present time with current demographics, shortages of clinicians, and required regulatory matters, staffing for patient care requires daily creative options. At times overtime is the only option remaining for healthcare institutions delivering care to their patients. Ultimately, banning mandatory overtime could result in hospitals having to turn patients away from emergency rooms or delay scheduled procedures. It could mean closing beds at a time when the need for care due to changing demographics seems to be on the rise.

In making this final legislative decision, our legislators - each of you - need to pause and consider the challenges this pending legislation would place before Wisconsin hospitals and their operations. Evaluate the strength of quality within Wisconsin hospitals and recognize that such quality does not occur without leaders within who care as much for the well-being and safety of our employees as we do for the well-being and safety of our patients. Wisconsin hospital administrators will continue to do the right thing, not because legislated us to do so, but because we want to maintain a high quality environment for patients, residents and the employees of our health care organizations. Quality healthcare is about doing what is right for patients and employees. Wisconsin hospitals have that focus. I am hopeful that you recognize the problems this legislation would create for hospital operations and ultimately patient care. I respectfully request that you do not support this legislation. Focus with us instead on the bigger issues that affect the future of our healthcare delivery in Wisconsin.

Testimony for Helen Berch-Kenny
Committee on labor Elections and Urban affairs
February 27, 2008

Good afternoon. Thank you, Chair Senator Coggs and members of the committee, for giving me the opportunity to testify before you here today.

My name is Helen Berch-Kenny, and I currently serve as one of the Directors of Nursing at Meriter Health Services here in Madison. Meriter employs approximately 3,500 people, including nearly 800 nurses across three corporate entities, 600 of whom are employed within the hospital. Our organization has been serving patients and families in southern Wisconsin for over 110 years. Meriter is also a locally-governed, not-for-profit community health care provider.

Today, I will be speaking in opposition to Senate Bill 512, which includes broad prohibitions and restrictions on the use of unavoidable overtime for health care workers.

Meriter Hospital has a unionized nursing workforce, represented by District 1199W/United Professionals for Quality Health Care affiliated with the Service Employees International Union. Like any organization, our labor relations experiences have been both positive and challenging at times. But for the most part, we have had a productive working relationship, and we bargain together in good faith.

Terms, including limitations in the amount of overtime, and compensation for unavoidable overtime are negotiated every two years as part of our collective bargaining agreement. There are very clear grievance processes in place when issues or differences arise. The nursing and the union leadership meet monthly to evaluate mandatory overtime. We are all committed to doing everything we can to eliminate the practice entirely. To assure patient needs are met safely, our contract includes language that requires any nurse who works a double shift must have a minimum of 12 hours off before returning to work.

Unavoidable overtime does occur at Meriter. Currently Meriter's mandatory overtime makes up less than one-half of 1% of all our hours worked by our nursing staff. The hospital and our nursing leadership take the issue of mandatory overtime very seriously. Alternate provisions for staffing are

always sought first and mandatory overtime is only used as a last resort to provide patient care. We are monitoring our mandatory overtime closely and working to eliminate the root causes of this situation. What we have learned is that 75% of the mandatory overtime is the result of two issues: a sudden increase in unplanned admissions and the unavoidable sick calls of our staff. For example, Monday February 25th, Meriter experienced a sudden increase in unscheduled admissions. We had 49 unplanned admission and over 30 of those admissions occurred before 5PM. The city was experiencing an upsurge of the flu. We also had 11 sick calls that day. These are the unforeseeable situations that sometimes result in mandatory overtime.

Staffing a health care facility is very different than staffing other businesses. We need to be available to care for patients and save lives every minute of every hour of every day, every year. It's not like running a restaurant; we can not turn patients away at the door if we get busy. When patients come to our hospital, we must care for them. That's where the challenge of staffing comes in.

No one likes the use of overtime. It takes a toll on our workers, both personally and professionally. It's expensive because the extra hours come at premium wages. For these reasons management does everything we possibly can to avoid the practice.

First, while we work hard to predict and anticipate patient demand, there are times when this just isn't possible. For example, fourteen women were admitted to our birthing center, all in active labor, all at nearly the same time. That's incredible. We didn't staff for that, because we could not have predicted it. Each of those mothers had to be cared for by trained, qualified professional nurses.

Second, the acuity of a patient's condition dictates the care they need. On some units, it's optimal to have one nurse for every four patients. But what if we get a fifth patient? What if one of the four requires more intensive care? These are the staffing challenges we wrestle with daily. We must insure that our patients are safe and receive the care that is required.

Third, as I know you've heard, we're facing a severe and growing workforce shortage in health care, particularly in nursing. Rather than focusing on mandatory overtime, the state needs to provide funding to increase nurse

faculty so we can increase the number of graduating nurses. This is what would be most beneficial for the public good.

Some would argue that hospitals are just trying to avoid regulation or cut corners on staffing by opposing this bill. This is not true. We are one of the most regulated operations in the nation. And as I pointed out earlier, we dislike mandatory overtime too, because of the impact it has on employee and patient satisfaction as well as the direct financial costs.

Some also contend that the use of unavoidable overtime is pervasive, and it's contributing to the nursing shortage by driving people out of the profession. As I pointed out, unavoidable overtime accounts for a tiny fraction of shift hours at Meriter. A 2001 statewide survey of RNs revealed that just over 1% of nurses who left cited unavoidable overtime as the reason. Right now, the Wisconsin Center for Nursing is seeking support and funding so the survey can be repeated. This data is essential to better understand the current status of the nursing workforce and is needed to develop a viable plan for meeting this future shortage. Wisconsin needs a nursing workforce that is sufficient in numbers, appropriately educated, effectively utilized and adequately supported to provide safe care that improves the health of the Wisconsin residents. We need our legislators to focus on meeting the staffing needs of the future.

This is a tough issue. It's an emotional issue. But the answer is not to have state legislators and regulators insert themselves in the hospital staffing process. The answer, instead, is to let health care managers and employees find workable solutions together whether directly or through their collective bargaining efforts. That's what is working at Meriter and for many other providers. Please let the process work, and don't tie our hands with a new layer of burdensome regulations.

Thank you for your time. I would be happy to take any questions.

My name is : *Michael J. Cordes RN*

MOT is a practice used to staff institutions with out enough nursing staff. It is an insidious, band-aid approach that is progressively depleting a profession that already faces a nationwide shortage. This abusive practice effects institutions from large urban hospitals to small mom and pop nursing homes. This practice holds both patients and their care givers hostage in a dangerous game of chance that plays out across the state everyday. The stakes being gambled here are the lives of our patients. The winners are the institutions that use MOT. The losers tragically are our patients and the nurses that care for them.

As nurses we save lives everyday

Not in a flashy get out the defibrillator and shock em back to life manner, but in a way that most people never realize.

We provide pt care in an environment that is ripe with numerous threats to their safety.

It is the nurses job to eliminate or minimize those threats.

Daily we operate high tech machines, administer drugs that can save as well as take a life, assist with critical procedures and through out it all use our professional judgement and training to ensure our pts safety.

Nursing is a profession that demands maximum effort and constant attention every minute of the day.

Giving anything less invites danger and increases the risks to pt safety.

A tired, over stressed, or inattentive nurse is a dangerous nurse

A nurse that makes mistakes.

A nurse that administers the wrong drug, schedules wrong test, or handles a pt in the wrong manner.

More acutely though it can be a nurse that fails to notice the subtle and often critical changes in a pt .that may save their life.

This is how MOT threatens that safe environment of our pts.

It relies on the use of tired, over stressed and inattentive care givers.

Maximum effort and constant attention cannot be attained with MOT

Safe pt care cannot be achieved with MOT

You as legislators Must place limits on the amount of time that our professionals can safely practice

Truck drivers and airline pilots have these limits

Why not nurses?.

Are the lives we touch less important than those in the transportation industry?

3

Wisconsin is a state that has always been concerned about the welfare of its citizens.

We have a variety of laws to keep our citizens healthy and safe from food handling practices to seat belts.

Currently you are debating a smoking ban to further insure the health of our state.

Isn't it time to think about the safety and health of our patients as well?

PLEASE consider a ban on MOT for health care workers.

Your constituents and our pts deserve nothing less.

Thank you.